

REMARKS

Claims 1-21 are pending in this application. In the last Office Action, claims 1-21 were rejected under 35 U.S.S. § 103 as being obvious over Fischer (US Pat. No. 6,640,325) in view of Kou (US Pat. No. 5,434,847). Applicants traverse the rejection of claims 1-21 under § 103 for the following reasons.

First, Applicants disagree that Fisher and Kou are “in the same field of endeavor,” as stated in the last office action. While Fischer states that it is related to the field of “network communications” (col. 1, ln. 10-14), Kou states that it “relates generally to multiple random access satellite communications system in which satellite channels are established between a central station and a plurality of remote stations” (col. 1, ln. 9-15). By contrast, embodiments of the present invention relate to a computer system having a multi-node computer architecture (specification, at 1). See MPEP § 2141.01(a) (explaining that to rely on a reference under § 103, the reference must be analogous prior art).

Second, in neither Fisher nor Kou does an outbound buffer “both store[] an outbound message that has not yet been sent to the receiving agent and store[] [an] unsuccessfully sent outbound message” as now recited in claim 1 and similarly recited in claims 6, 11, 15 and 20. Thus, for example, claim 1 recites determining that all the messages in the outbound buffer, including those messages that were not yet sent, “have been successfully sent before any other outbound messages are sent to the receiving agent.” By contrast, when Kou determines that data needs to be retransmitted, “the transmission of data in transmit buffer 31 is inhibited until the retransmit buffer 50 is emptied.” See col. 5, ln. 42-48. That is, Kou only teaches retransmitting all entries in the retransmit buffer prior to transmitting any data that was not previously sent, whereas in the Applicants' claim 1, all messages in the outbound buffer (including any not previously sent) are sent when the threshold number of times is reached.

Third, there is no evidence of a motivation to combine the satellite communications retransmit arrangement discussed in Kou with the network transmission method disclosed in Fisher. The references themselves do not provide a motivation for any such combination. While Fisher does discuss a “transmission attempt counter” (col. 8, ln. 58-65), Fisher does not teach or suggest giving any preference to an unsuccessfully transmitted message (i.e., preference for the unsuccessfully transmitted message over any other messages waiting to be sent) when the retransmission limit is reached, as provided in the Applicants’ claimed invention. Rather, Fisher takes the opposite approach. Fisher keeps attempting to transmit a packet in the transmit queue until the transmission limit is reached, but once that limit is reached, Fisher “advances to the next packet in the transmission queue.” See col. 8, ln. 60-65. That is, when the Fisher transmission limit is reached, Fisher skips to the next message rather than give any preferences to the unsuccessfully transmitted message.

In the absence of any evidence of a motivation to combine, the last office action simply states that it would have been obvious to combine these references “for the purpose of enabling reliable error correction.” See Office Action, at 2. But there is no reason (other than the Applicants’ disclosure) that a person of ordinary skill in the art would have believed that this combination would enable reliable error correction. To support a rejection under § 103, the Patent and Trademark Office must “point to some concrete evidence in the record.” See, e.g., *In re Zurko*, 258 F.3d 1379, 1368 (Fed. Cir. 2001). The lack of concrete evidence to support a combination of Fisher and Kou is an additional reason that the rejection of claims 1, 6, 11, 15 and 20 as obvious over these references should be withdrawn.

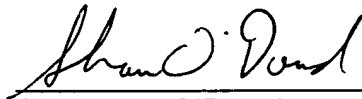
For at least these reasons, claims 1, 6, 11, 15 and 20 are believed to be patentable over the art of record. The remaining claims depend from one of claims 1, 6, 11, 15 and 20 are believed to be patentable for at least the same reasons as those claims.

Applicants respectfully request entry of the above amendments and favorable action in connection with this application. The Office is hereby authorized to charge any additional fees or credit any overpayments under 37 C.F.R. 1.16 or 1.17 to Kenyon &

Kenyon Deposit Account No. 11-0600. The Examiner is invited to contact the undersigned to discuss any matter concerning this application.

Respectfully submitted,

Date: June 25, 2004


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